

REMARKS

Claims 1-4 are currently pending in the application. Claims 1 and 4 are in independent form.

The Office Action states that the Oath or Declaration is missing. Enclosed herewith is the Oath or Declaration, along with a statement of facts regarding the lack of signature by the inventor Dr. Dou.

The Office Action has held that the title of the invention is not descriptive and a new title is required. The new title is "KRINGLE PROTEINS AND METHODS OF USING THE SAME". Reconsideration of the objection is respectfully requested.

Additionally, the Office Action has held that figure 5 is objected to as not being labeled as parts A and B. A new figure 5 is enclosed herewith with the appropriate A and B labels. Reconsideration of the objection is respectfully requested.

Claims 1-4 stand rejected under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for the KED of figure 3 and its use in a particular cancer model and for the kringle 1-5 of figure 6, does not reasonably provide enablement for "pharmaceutical compositions" comprising all kringle proteins, all kringle proteins "derive from" tPA, or all methods of "treating all tumors" with kringle proteins. The claims have been amended, without prejudice, to recite that the protein selected must have anti-angiogenic properties as disclosed in the specification as filed at page 12, lines 16-27, page 16, lines 18-31, page 17, lines 3-page 18, line 10. As disclosed in the cited sections, and throughout the specification as filed, the presently claimed invention recites use of kringle proteins have anti-angiogenic properties. It is these properties that define the present invention. Further, as Applicants have disclosed throughout the specification and specifically at those locations identified above, that the anti-angiogenic properties of the kringle proteins have been determined and that anti-angiogenic properties are useful in treating numerous disease. It is well known to those of skill in the art that numerous diseases can be treated by affecting angiogenesis. Since the kringle proteins of the claimed invention have anti-angiogenic properties, use of such proteins for affecting angiogenesis properly enabled by the specification as filed and reconsideration of the rejection is respectfully requested. There is therefor

sufficient disclosure that the claimed invention can be used in treating disease without requiring undue experimentation.

Claims 1-4 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The Office Action has maintained that the claims are genus claims and that there is no recitation as to the distinguishing attributes that are shared by the members of the genus. It is respectfully submitted that these claims have been amended to recite that the commonality between all of the members of the genus are the anti-angiogenic properties that are created by use of the proteins. Additionally, with regard to the kringle derived from the tPA protein, it is respectfully submitted that such kringle are known to those of skill in the art and as such do not need to be recited specifically. Individuals of skill in the art are familiar with kringle and methods of obtaining such kringle. It is therefore not necessary for a specific recitation of all of the kringle that can be obtained to be listed throughout the specification. The specification does provide numerous examples of kringle that have been isolated and are sequenced. Additionally, the KED kringle is specifically recited and a sequence provided as SEQ ID NOS. 68 and 69. Accordingly, there is support for the claims as amended in the application as filed and reconsideration of the rejection is respectfully requested.

Claims 2 and 4 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicants regard as the invention. The Office Action states that the claims recite “consisting essentially of” and the metes and bounds of the phrase are not known. In order to further prosecution, the claims have been amended to recite “consisting of” and reconsideration of the rejection is respectfully requested.

Claims 1-4 stand rejected under 35 U.S.C. § 102(e) as being unpatentable by Henkin et al. patent. Reconsideration of the rejection under 35 U.S.C. § 102(e), as anticipated by the Henkin, et al patent, as applied to the claims is respectfully requested. Anticipation has always been held to require absolute identity in structure between the claimed structure and a structure disclosed in a single reference.

The Office Action cited the Henkin, et al patent, however, the Henkin, et al patent has a filing date of September 1999. It is respectfully submitted that the presently claimed invention has a priority date of February 1999. This predates the filing date of the cited prior art and as such the cited prior art is not prior art for the claimed invention, thereby rendering the present rejection moot. Reconsideration of the rejection is respectfully requested.

The remaining dependent claims not specifically discussed herein are ultimately dependent upon the independent claims. References as applied against these dependent claims do not make up for the deficiencies of those references as discussed above. The prior art references do not disclose the characterizing features of the independent claims discussed above. Hence, it is respectfully submitted that all of the pending claims are patentable over the prior art.

In view of the present amendment and foregoing remarks, reconsideration of the rejections and advancement of the case to issue are respectfully requested.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

KOHN & ASSOCIATES, PLLC



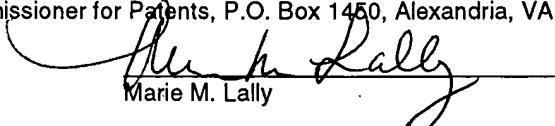
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